

PUBLIC SERVICE COMMISSION OF WISCONSIN

Minutes and Informal Instructions of the Open Meeting of Thursday, April 17, 2014

The Public Service Commission of Wisconsin (Commission) met as noticed. Present were Chairperson Montgomery, Commissioner Callisto and Commissioner Nowak (telephonically).

Minutes

The Commission approved the minutes of the open meetings of Thursday, March 27, 2014; Monday, March 31, 2014; and Wednesday, April 2, 2014.

3930-CE-103 - Application of the Village of Mount Horeb, as an Electric Public Utility, for Authority to Construct a 12 kV Underground Three-phase Circuit to Create a Distribution Loop, in the Village of Mount Horeb, Dane County

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

6680-GF-134 - Request of Wisconsin Power and Light Company for Deferral of Incremental Pre-Certification Costs and Pre-Construction Costs Associated with New Generation Resource

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

The Commission determined that this matter should be returned to the Commission for final review and decision.

6680-CG-156 - Application of Wisconsin Power and Light Company, as a Gas Public Utility, for Authority to Construct Facilities and Provide Natural Gas Service in the Town of Fairfield, Sauk County, Wisconsin

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

6680-CG-157 - Application of Wisconsin Power and Light Company, as a Gas Public Utility, for Authority to Construct Facilities and Provide Natural Gas Service in the Town of Winfield, Sauk County, Wisconsin

The Commission approved the Notice of Investigation and directed it be signed by the Secretary to the Commission on behalf of the Commission.

210-ER-105 - Application of the City of Arcadia, Trempealeau County, as an Electric Public Utility, for Authority to Increase Electric Rates

The Commission approved the Notice of Proceeding and directed it be signed by the Secretary to the Commission on behalf of the Commission.

1880-ER-106 - Application of the City of Evansville, Rock County, Wisconsin, as an Electric Public Utility, for Authority to Establish Mandatory Time-of-Day Rates for Customers with Monthly Demands Exceeding 200 Kilowatts But Less Than 1,000 Kilowatts

The Commission approved the Notice of Proceeding and directed it be signed by the Secretary to the Commission on behalf of the Commission.

6690-UR-123 - Application of Wisconsin Public Service Corporation for Authority to Adjust Electric and Natural Gas Rates

The Commission approved the Notice of Proceeding and directed it be signed by the Secretary to the Commission on behalf of the Commission.

5260-WR-102 - Application of Sauk City Municipal Water and Light Utility, Sauk County, Wisconsin, for Authority to Increase Water Rates

The Commission approved the Notice of Proceeding and directed it be signed by the Secretary to the Commission on behalf of the Commission.

1-AC-246 - Adoption of Federal Gas Pipeline Safety Regulations

The Commission approved opening this rulemaking docket regarding the adoption of the federal gas pipeline safety regulations.

The Commission also accepted the Statement of Scope for submission to the Governor's office and directed Commission staff to prepare and transmit the necessary documents to the Governor's office. If the Governor's office approves the Statement of Scope, Commission staff is directed to prepare and submit the necessary documents concurrently to the Legislative Reference Bureau for publication in the *Wisconsin Administrative Register* and to the Department of Administration.

6690-DR-109 - Petition of Wisconsin Public Service Corporation for Declaratory Ruling Regarding the Right to Self-Supply Station Power to Fox Energy Center

The Commission granted the request made on behalf of Wisconsin Public Service Corporation to open a declaratory judgment proceeding relating to the provision of station power to Fox Energy Center and accepted the briefing schedule agreed upon by the parties.

The Commission directed the Gas and Energy Division to draft an order opening this docket and adopting the briefing schedule agreed to by the parties. Upon receipt of the briefs, this matter shall be returned to the Commission for final review and decision.

2707-NC-100 - Application of ITC Midwest LLC for Authority to Become an Electric Utility

The Commission discussed this matter and made determinations, including the following:

1. It is reasonable to issue a Certificate of Authority to ITC Midwest (ITCM) under Wis. Stat. § 196.49(1)(am) because ITCM meets the statutory definition to be an independent transmission owner and it has demonstrated sufficient control over its facilities.

Chairperson Montgomery dissented.

2. The Commission declined to determine whether ITCM meets the definition of “foreign transmission provider” under Wis. Stat. § 32.02(5).

Commissioner Callisto dissented.

3. While the Commission declined to determine the extent to which it has or will exercise its jurisdiction over financial health and securities issues as contemplated in Wis. Stat. ch. 201, including without limitation Wis. Stat. § 201.11, and Wis. Stat. § 196.795(5), ITCM shall keep the Commission informed of such matters by copying the Commission on ITCM’s Federal Power Act Section 204 filings.

Commissioner Callisto dissented, concluding that the Commission’s jurisdiction over securities under Wis. Stat. ch. 201 is preempted by the Federal Power Act, provided, however, the Commission retains jurisdiction to enforce Wis. Stat. § 201.11.

4. ITCM shall not bypass the distribution facilities of an electric utility or provide service directly to a retail customer or member.

5. It is reasonable that continued qualification as an independent transmission owner is conditioned upon ITCM continuing to meet the requirements of Wis. Stat. § 196.485(1)(dm). ITCM shall file a notice with the Commission, within ten business days, of any event which would cause it to no longer meet the definition of an independent transmission owner.
6. Commission staff and ITCM shall discuss the application of Wis. Stat. § 196.05 to ensure that any application of this statutory provision does not interfere with the authority of the Federal Energy Regulatory Commission over ITCM's rates.
7. It is reasonable to grant ITCM a waiver from the requirements of Wis. Admin. Code § 112.05(2), provided, however, the Commission shall retain its jurisdiction to rescind the waiver and impose these requirements at a future date if circumstances warrant.

Commissioner Callisto dissented.

8. The Commission accepted all of the uncontested alternatives for uncontested issues.

The Commission directed the Gas and Energy Division to draft an order in this docket, consistent with its discussion. The order shall come before the Commission for final review and determination.

9408-YO-100 - Application of ITC Holdings Corp. and ITC Midwest LLC for a Certificate of Approval to Form a Holding Company under Wis. Stat. § 196.795

The Commission discussed this matter and made determinations, including the following:

1. It is reasonable to grant ITC Holdings' (ITCH) application to become a Wisconsin public utility holding company with conditions, but without requiring ITCH to consent to the waiver of federal preemption.
2. The Commission declined to determine the extent to which it has or will exercise its jurisdiction under Wis. Stat. § 196.795(4).

Commission Callisto dissented, concluding that federal law does not preempt the Commission's jurisdiction under Wis. Stat. § 196.795(4).

3. ITCH shall provide Commission staff with full access to the records of the holding company and its affiliates for any document that Commission staff determines is relevant to fulfill the Commission's statutory duties. ITCH shall keep any record or

document which is necessary for the Commission to perform its duties under this section and which is consistent with generally accepted accounting and record keeping practices of the particular type of business involved. The form of records shall ensure that there will be a clear and concise audit trail for those costs associated with affiliated transactions.

4. The Commission declined to rule on the applicability of Wis. Stat. §§ 196.795(5)(c) and 196.795(5)(d) at this time.
5. The Commission approved the application without a condition that ITCH must accept Commission jurisdiction over any issue over which the Commission asserts jurisdiction.
9. The Commission accepted all of the uncontested alternatives for uncontested issues.

The Commission directs the Gas and Energy Division to draft an order in this docket, consistent with its discussion. The order shall come before the Commission for final review and determination.

The Commission adjourned the meeting at 11:54 a.m.

Sandra J. Paske
Secretary to the Commission

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